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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Group Art Unit 3746

In re

Patent Application of

Stephen M. Floyd, et al.

Application No. 10/712,459

Confirmation No.: 9315

Filed: November 13, 2003

Examiner: Ehud Gartenberg

"INTEGRAL HEAT RECOVERY  
DEVICE"

CORRECTED TRANSMITTAL FOR SUPPLEMENTAL INFORMATION DISCLOSURE  
STATEMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants submitted an information disclosure statement (IDS) with a Request for Continued Examination (RCE) dated June 3, 2005. The submission stated that the IDS was being submitted pursuant to 37 C.F.R. §1.97(c) and (e)1. However, a review of the foreign search that prompted the submission of the IDS indicates that while Applicants' attorney received the foreign search report not more than three months prior to the filing date of the IDS, the foreign patent office issued the search report more than three months before the filing of the IDS. As such, Applicants' attorney cannot make the statement that the references were first cited not more than three months before the filing of the IDS.

In light of the foregoing, the IDS should be considered as being filed pursuant to 37 C.F.R. §1.97(b) and the Applicant's attorney's statement that the references were first cited in a corresponding foreign case not more than three months before the filing date of the IDS should be disregarded. Because the IDS was submitted with a Request for Continued

I, Bridget Laack, hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date of my signature.

Signature Bridget Laack

Date of Signature 6/8/05

Examination, it must be considered by the Examiner. The error made by Applicants' attorney does not effect the requirement to consider the references nor does it require any additional fees. In addition, there was no deceptive intent as the references were cited in an RCE and as such must be considered even if Applicants can not make the statement that the references were first cited in a corresponding foreign application not more than three months before the filing date.

Applicants still make no concession that the cited references are prior art, and Applicants expressly reserve the right to antedate the references as may be appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'TL J Otterlee', written over a horizontal line.

Thomas J. Otterlee  
Reg. No. 48,652

File No. 031383-9088 US001

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